

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTTSDALE INSURANCE COMPANY,

Plaintiff,

v.

HENRY MORENO, ROSE A. MORENO, LA
MANSION DEL RIO, WALTER HARVEY,
and DOES 1 through 100,
inclusive,

Defendants.

CASE NO. S-02-1890 WBS GGH

**FIRST SUPPLEMENTAL STIPULATION
AND [PROPOSED] ORDER REGARDING
ADMISSIBILITY OF UNDISPUTED FACTS
IN LIEU OF PRESENTATION OF
EVIDENCE AT TRIAL**

[L.R. 83-143]

Trial Date : June 13, 2006
Time : 9:00 a.m.
Dept : Court Room No. 5
Judge : William B. Shubb

Plaintiff SCOTTSDALE INSURANCE COMPANY and Defendant WALTER HARVEY, through their respective counsel of record, hereby enter into this first supplemental stipulation regarding the admissibility of undisputed facts in lieu of presentation of evidence at trial commencing on June 13, 2006 at 9:00 a.m., in the above-referenced United States District Court for the Eastern District of California.

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This first supplemental stipulation is entered by and between the parties so as to facilitate trial of this matter, is binding on the parties and relieves each of producing evidence to prove the stipulated facts. (Spaulding v. City of Tulsa, Oklahoma (10th Cir. 1996) 95 F.3d 1492, 1501-1502.) Moreover, the scope of this stipulation includes both the matters actually stipulated, as well as, reasonable inferences that may be drawn therefrom. (United States v. Baker (9th Cir. 1979) 589 F.2d 1008.) By entering into this first supplemental stipulation neither party waives and expressly reserves the right to request a jury instruction regarding the effect of this stipulation. While stipulations conclusively establish a fact, the factfinder ultimately determines the weight to be given the stipulated fact. (O'Connor v. City & County of Denver (10th Cir. 1990) 894 F.2d 1210, 1225-1226.)

The stipulated facts are as follows:

I. FACTS REGARDING THE SCOTTSDALE INSURANCE COMPANY POLICY.

1. Scottsdale Insurance Company ("Scottsdale") issued a general liability insurance policy number CPS0238393 to named insured Henry A. Moreno (d/b/a La Mansion Del Rio) (hereinafter the "Scottsdale Policy").

2. The Scottsdale Policy incepted on April 23, 1998.

3. The Scottsdale Policy was cancelled on September 17, 1998.

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1 4. The Scottsdale Policy was cancelled because Henry
2 Moreno failed to pay the premium.

3 5. For purposes of this matter, the relevant policy period
4 was April 23, 1998 through September 17, 1998.

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6 DATED: June 2, 2006 SELMAN BREITMAN LLP

7
8 By:

9 LINDA WENDELL HSU (SBN 162971)
10 JAMES R. TENERO (SBN 201023)
11 Attorneys for Plaintiff
12 SCOTTSDALE INSURANCE COMPANY

13
14 DATED: June 2, 2006 BORTON, PETRINI & CONRON LLP

15 By:

16 /s/ MARK S. NEWMAN
17 (as authorized on 06/02/06)
18 MARK S. NEWMAN (SBN 107012)
19 Attorneys for Defendant
20 WALTER HARVEY

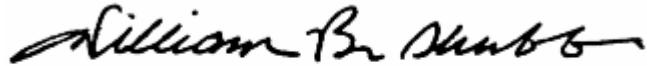
21
22 DATED: June 2, 2006 LAW OFFICES OF POOLE & PEREIRA

23 By:

24 /s/ PAUL A. PEREIRA
25 (as authorized on 06/02/06)
26 PAUL A. PEREIRA (SBN 128539)
27 Attorneys for Defendant
28 WALTER HARVEY

29
30 **IT IS SO ORDERED,**

31
32 DATED: June 2, 2006

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35 WILLIAM B. SHUBB

36 UNITED STATES DISTRICT JUDGE

37
38 **FIRST SUPPLEMENTAL STIPULATION AND [PROPOSED] ORDER REGARDING ADMISSIBILITY OF**
39 **UNDISPUTED FACTS IN LIEU OF PRESENTATION OF EVIDENCE AT TRIAL -**
40 **CASE NO. S-02-1890 WBS GGH**